

**UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION**

**KATHY DUGUAY, o/b/o SEAN  
STODDARD (deceased),**

Plaintiff,

v.

**CAROLYN COLVIN, Commissioner of  
Social Security Administration,**

Defendant.

Case No. 3:12-cv-00146-ST

**ORDER**

Based on a review of the record and an analysis of the factors in *Gisbrecht v. Barnhart*, 535 US 789 (2002), Plaintiff's Unopposed Motion for Attorney Fees Under 42 USC § 406(b) [#28] is GRANTED in the amount of \$35,970.50, which is 25% of the retroactive benefits awarded (\$167,882.00) less the \$6,000.00 fee awarded under 42 USC § 406(a) for work performed at the administrative level.

This court has previously awarded Equal Access to Justice Act (EAJA) fees to plaintiff's attorney in the sum of \$6,158.25. Plaintiff's attorney may retain only the larger of the EAJA fees and § 406(b) fees. Therefore, when issuing payment of the § 406(b) fees, defendant is directed to subtract the amount previously paid to plaintiff's attorney pursuant to the EAJA and pay only the net balance, minus any user fee. Any amount withheld (including the EAJA fee offset) after all administrative and attorney fees are paid should be released to plaintiff.

DATED February 19, 2016.

s/ Janice M. Stewart  
\_\_\_\_\_  
Janice M. Stewart  
United States Magistrate Judge